

THE HONORABLE BENJAMIN H. SETTLE

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

EMILY TORJUSEN,

Plaintiff,

v.

NATIONAL RAILROAD PASSENGER  
CORPORATION, d/b/a AMTRAK; and  
DOES ONE THROUGH FIFTY,

Defendants.

Case No. 3:18-cv-05785-BHS

**JOINT STATUS REPORT AND  
DISCOVERY PLAN**

Plaintiff, by and through her counsel of record, and Defendant, by and through its counsel of record, present this Joint Status Report and Discovery Plan:

**1. Statement of Nature & Complexity of Case.**

This case arises out the December 18, 2017 derailment of Amtrak Cascades Train 501 in DuPont, Washington during its inaugural run from Portland to Seattle on the new Point Defiance bypass. Defendant National Railroad Passenger Corporation (hereinafter Amtrak) does not contest liability for compensatory damages proximately caused by the derailment of Train 501.

**2. Proposed Deadline for Joining Additional Parties.**

The parties proposed February 28, 2019 as the deadline for seeking to join additional parties, if any.

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**3. No Consent to Magistrate.**

The parties do not consent to assignment of this case to a full time United States Magistrate Judge.

**4. Fed. R. Civ. P. 26(f)(3) Discovery Plan.**

The Rule 26 conference was completed on December 12, 2018.

**A. Initial Disclosures.**

The parties plan to exchange initial disclosures on or before January 30, 2019.

**B. Subjects, Timing, and Potential Phasing of Discovery.**

The parties assert that discovery may be needed on medical causation and damages, which should be obtained by methods including, but not limited to, interrogatories, requests for production, requests for admission, and depositions.

**C. Electronically Stored Information.**

No discovery of electronically stored information is anticipated at the present time.

**D. Privilege Issues.**

At the present time, the parties do not foresee any unusual issues regarding claims of privilege.

**E. Proposed Limitations on Discovery.**

The parties propose discovery within the limitations set forth in the Federal Rules of Civil Procedure.

**F. Discovery-Related Orders.**

No discovery motions are anticipated at the present time.

**5. Local Civil Rule 26(f)(1) Topics:**

**A. Prompt Case Resolution.**

The parties decline to participate in the Individualized Trial Program.

**B. Alternative Dispute Resolution.**

The parties agree to submit to mediation under Local Civil Rule 39.1(c), a settlement conference before a magistrate judge, or any other alternative dispute resolution procedure that the Court deems appropriate at the conclusion of discovery.

**C. Related Cases:**

1. USDC – SEA Cause No. 2:18-cv-00072  
Hon. Benjamin H. Settle  
*Pennie Cottrell v. NRPC*
2. USDC – SEA Cause No. 2:18-cv-00093  
Hon. Benjamin H. Settle  
*Cecilia Goetz v. NRPC*
3. USDC – SEA Cause No. 2:18-cv-00134  
Hon. Benjamin H. Settle  
*Aaron Harris v. NRPC*
4. USDC – TAC Cause No. 3:18-cv-05062  
Hon. Benjamin H. Settle  
*Donald Jones; Reya Rezai v. NRPC*
5. USDC – SEA Cause No. 2:18-cv-00190  
Hon. Benjamin H. Settle  
*Hilario Valdez, et al. v. NRPC*
6. USDC – TAC Cause No. 3:18-cv-05106  
Hon. Benjamin H. Settle  
*Madeleine Garza v. NRPC*
7. USDC – SEA Cause No. 2:18-cv-00086  
Hon. Benjamin H. Settle  
*Blaine Wilmotte v. NRPC*
8. USDC – SEA Cause No. 3:18-cv-05366  
Hon. Benjamin H. Settle  
*Drew Mitchem v. NRPC*
9. USDC – TAC Cause No. 3:18-cv-05415  
Hon. Benjamin H. Settle  
*Diana Rincon v. NRPC*
10. USDC – TAC Cause No. 3:18-cv-05448  
Hon. Benjamin H. Settle  
*Jason Cates v. NRPC*
11. USDC – TAC Cause No. 3:18-cv-05451  
Hon. Benjamin H. Settle  
*Megan Douglas v. NRPC*

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12. USDC – TAC Cause No. 3:18-cv-05452  
Hon. Benjamin H. Settle  
*Rudolph Wetzel v. NRPC*
13. USDC – TAC Cause No. 3:18-cv-05498  
Hon. Benjamin H. Settle  
*Angela and Kenneth Ward v. NRPC*
14. USDC – TAC Cause No. 3:18-cv-05564  
Hon. Benjamin H. Settle  
*Donnell Linton v. NRPC*
15. USDC – TAC Cause No. 3:18-cv-05576  
Hon. Benjamin H. Settle  
*Josh Hartley v. NRPC*
16. USDC – SEA Cause No. 2:18-cv-00648  
Hon. Benjamin H. Settle  
*Dale Skyllingstad v. NRPC*
17. USDC – SEA Cause No. 2:18-cv-01050  
Hon. Benjamin H. Settle  
*Patricia Freeman v. NRPC*
18. USDC – TAC Cause No. 3:18-cv-005572  
Hon. Benjamin H. Settle  
*Karen and Kevin Barrett v. NRPC*
19. USDC – TAC Cause No. 3:18-cv-05594  
Hon. Benjamin H. Settle  
*Jacob Burke and Belinda Cottrell-Burke v. NRPC*
20. USDC-TAC Cause No. 3:18-cv-05617  
Hon. Benjamin H. Settle  
*Dona Linton v. NRPC*
21. USDC-TAC Cause No. 3:18-cv-05629  
Hon. Benjamin H. Settle  
*Yu-Tsen Yu v. NRPC*
22. USDC-TAC Cause No. 3:18-cv-05684  
Hon. Benjamin H. Settle  
*Zhiming Zhuang and Huinan Yu v. NRPC*
23. USDC-SEA Cause No. 2:18-cv-01298  
Hon. Benjamin H. Settle  
*T.B. v. NRPC, et al.*
24. USDC-TAC Cause No. 3:18-cv-05776  
Hon. Benjamin H. Settle  
*Hannah Near v. NRPC*

- 1 25. USDC-TAC Cause No. 3:18-cv-05788  
2 Hon. Benjamin H. Settle  
3 *Amanda Uhlarik v. NRPC*
- 4 26. USDC-TAC Cause No. 3:18-cv-05784  
5 Hon. Benjamin H. Settle  
6 *Ngoc Ahn Phan and Long Phan v. NRPC*
- 7 27. USDC-TAC Cause No. 3:18-cv-05823  
8 Hon. Ronald B. Leighton  
9 *Laura Vaughns and Albert J. Vaughns v. NRPC*
- 10 28. USDC-TAC Cause No. 3:18-cv-05840  
11 Hon. Benjamin H. Settle  
12 *Riedel, individually and as PR for the*  
13 *Estate of Benjamin Gran v. NRPC*
- 14 29. USDC-TAC Cause No. 3:18-cv-05844  
15 Hon. Ronald B. Leighton  
16 *Fenelon v. NRPC*
- 17 30. USDC-TAC Cause No. 3:18-cv-05880  
18 Hon. Benjamin H. Settle  
19 *Robert and Michelle Snyder v. NRPC*
- 20 31. USDC-TAC Cause No. 3:18-cv-05883  
21 Hon. Benjamin H. Settle  
22 *Brook Spurgeon v. NRPC*
- 23 32. USDC-TAC Cause No. 3:18-cv-05956  
24 Hon. Benjamin H. Settle  
25 *Eran Howarth v. NRPC*
- 26 33. USDC-TAC Cause No. 3:18-cv-05972  
27 Hon. Benjamin H. Settle  
*Shauna and Brian Stern v. NRPC*

**D. Discovery Management.**

The parties request that this case and the Related Cases be assigned to a single judge for purposes of pretrial discovery management.

**E. Anticipated Discovery Sought.**

Interrogatories, requests for production, requests for admission, and depositions related to medical causation and damages.

**F. Phasing of Motions.**

The parties do not anticipate phasing motions to facilitate early resolution of potentially dispositive issues.

**G. Preservation of Discoverable Information.**

At the present time, the parties do not have preliminary issues relating to the preservation of discovery information.

**H. Privilege Issues.**

The parties agree to comply with the procedures for handling inadvertent production of privileged information contained in Fed. R. Civ. P. 26(b)(5)(B). The parties have no other privilege waiver issues at this time.

**I. Model Protocol for Discovery of ESI.**

The parties do not anticipate that a protocol for discovery of ESI will prove necessary.

**J. Alternatives to Model ESI Protocol.**

The parties do not anticipate that alternatives to the model protocol for discovery of ESI will prove necessary.

**6. Completion of Discovery.**

Plaintiff believes that discovery can be completed by 30 days prior to trial or December 2019.

Defendant does not believe discovery can be completed by that date. Defendant believes February 2020 is a more achievable discovery deadline.

**7. No Bifurcation.**

The parties do not believe bifurcation is necessary.

**8. Individual Trial Program and ADR.**

The parties will engage in pretrial mediation pursuant to Local Civil Rule 39.1(c), a settlement conference before a magistrate judge, or any other alternative dispute resolution procedure that the Court deems appropriate, and will work together to determine what discovery needs to occur prior to ADR. The parties decline to participate in the Individualized Trial

1 Program.

2 **9. Other Suggestions for Shortening or Simplifying Case.**

3 Counsel will work toward shortening and simplifying the case but have no specific  
4 suggestions at this time.

5 **10. Trial Date.**

6 Plaintiff believes that the case will be ready for trial by January 2020.

7 Given the current trial dates in other cases arising out of the December 18, 2017 Amtrak  
8 derailment and other matters, Defendant believes that this case should not be scheduled for trial  
9 prior to March 2021.

10 **11. Jury Trial.**

11 The case will be tried by a jury.

12 **12. Number of Trial Dates.**

13 The parties anticipate that trial will take approximately 5 court days.

14 **Trial Counsel for Plaintiffs:**

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**13. Trial Date Conflicts.**

In setting a trial date, counsel for Defendant may have complications with the following dates: 12.03.2018, 01.07.2019, 02.11.2019, 02.25.2019, 03.18.2019, 03.26.2019, 04.09.2019, 04.29.2019, 05.28.2019, 06.10.2019, 06.18.2019, 06.24.2019, 07.03.2019, 07.10.2019, 08.12.2019, 08.27.2019, 09.03.2019, 10.01.2019, 10.07.2019, 10.08.2019, 10.21.2019, 10.29.2019, 11.25.2019, 12.02.2019, 01.28.2020, 02.25.2020, 03.03.2020, 03.23.2020, 04.07.2020, 04.28.2020, 05.26.2020, 06.09.2020, 09.15.2020, 10.20.2020, 11.10.2020, 12.01.2020, 01.12.2021.



**14. Corporate Disclosure Statement.**

Defendant will file its corporate disclosure statement pursuant to Fed. R. Civ. P. 7.1 and LCR 7.1 by December 21, 2018.

**15. Service.**

Defendant has been served.

The parties stipulate that all service of documents not filed with the Court, including but not limited to, discovery requests, discovery responses, deposition notices, disclosures, and correspondence, may be made by electronic service via electronic service (email). Electronic service made by 5:00 p.m. Pacific time on any business day shall be considered equivalent to personal service on that business day. Electronic service after 5:00 p.m. or on a Saturday, Sunday, or federal holiday shall be deemed service the next business day. Service by any other means shall be governed by the Federal Rules of Civil Procedure and the Local Civil Rules of the United States District Court, Western District of Washington.

**16. Request for Trial Setting Conference**

Plaintiff requests that the Court set an in-person Rule 26 Case Conference or Trial Setting Conference.

DATED this 7<sup>th</sup> day of January 2019.

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*Attorneys for Plaintiff*

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Passenger Corporation*

**CERTIFICATE OF SERVICE**

*Emily Torjusen vs. National Railroad Passenger Corp. dba AMTRAK  
USDC District Western District of WA - Tacoma, Case No.3:180CV-05785*

I, Karen Andrade, certify that on **January 7, 2019**, I served the attached:

**JOINT STATUS REPORT AND DISCOVERY PLAN**

in said cause, by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

LANE POWELL, PC Timothy D. Wackerbarth, Esq. Andrew Yates, Esq. 1420 Fifth Avenue, Suite 4200 Seattle, WA 98111-9402 206-223-71017 Fax
---

    X     **BY MAIL:** I certify that I placed each such sealed envelope, with postage thereon fully prepaid for first-class mail, for collection and mailing at Oakland, California, following ordinary business practices. I am readily familiar with the practice of Hildebrand, McLeod & Nelson, LLP. for processing of correspondence, said practice being that in the ordinary course of business, correspondence is deposited in the United States Postal Service the same day as it is placed for processing.

    X     **BY ELECTRONIC MAIL:** I hereby certify that I caused the above document(s) to be sent electronically to the following email addresses:  
[WackerbarthT@lanepowell.com](mailto:WackerbarthT@lanepowell.com); [YatesA@lanepowell.com](mailto:YatesA@lanepowell.com); [eltonp@lanepowell.com](mailto:eltonp@lanepowell.com);  
[houstonm@lanepowell.com](mailto:houstonm@lanepowell.com); yangm@lanepowell.com

           **BY EXPRESS MAIL:** I certify that I deposited such envelope(s) or package(s) in a facility regularly maintained by the U.S. Postal Service for receipt of Express Mail, as specified in C.C.P. §1013(c), with Express Mail postage prepaid.

           **BY PERSONAL SERVICE:** I certify that I caused such envelope(s) containing a true copy thereof to be hand delivered to the parties listed.

           **BY OVERNIGHT DELIVERY:** I certify that I caused such envelope(s) or package(s) designated by **Federal Express** with delivery fees paid or provided and;

       Deposited such envelope(s) or package(s) in a facility regularly maintained by the **Federal Express** courier;

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*Emily Torjusen vs. National Railroad Passenger Corp. dba AMTRAK*  
*USDC District Western District of WA - Tacoma, Case No.3:180CV-05785*

authorized by **Federal Express** carrier to receive documents.

\_\_\_\_ **FACSIMILE:** I certify that by use of facsimile machine telephone number 510-465-7023, I served a true copy of the above-entitled document(s), on the parties in said action by transmitting by facsimile machine to the numbers as set forth above, **with a copy of the original to follow**. I caused the machine to print a record of the fax transmission, a copy of which is attached to this Declaration.

Executed this **January 7, 2019**, at Oakland, California.

Pursuant to FRCP 5(b), I certify that I am an employee of Hildebrand, McLeod & Nelson, LLP, who are members of the bar of this court and at whose direction this service was made.

/S/ KAREN ANDRADE  
KAREN ANDRADE